4.

# Commonwealth of Massachusetts

AGAINST

# THE STATE OF RHODE ISLAND

AND

# PROVIDENCE PLANTATIONS.

---

*READ AND CIRCULATE.*

---

TAUNTON:

PRINTED BY C. A. HACK, 7 UNION BLOCK.

1861.

# MASSACHUSETTS vs. RHODE ISLAND.

## THE CASE AS IT IS.

From the early settlement of this country down to the year 1741, the Plymouth Colony and Massachusetts, after they were united in 1692, extended from the Atlantic Ocean to Narraganset Bay and the Seekonk and Blackstone rivers. The present towns of Cumberland, Barrington, Warren, Bristol, Tiverton, Little Compton and Fall River, now in Rhode Island, received the charter of their existence from what is now Massachusetts. For that whole period they were under her jurisdiction, sent representatives to her General Court, paid taxes to her officers, held their title deeds under her laws, and had justice administered in her courts. In all respects they were as much a part of Massachusetts as the town of Boston itself. They were such by natural position, by original charter from the British Crown, by purchase from the aboriginal owners, by prior settlement, by more than a century of quiet, peaceable, undisputed possession and jurisdiction.—Indeed, this last ground, were there no other, would vest the complete jurisdiction over those towns in Massachusetts; since States, as well as individuals, may acquire rights by long continued possession. 4 Howard's Rep. 591.

In justice and equity therefore Massachusetts ought at this day, as heretofore, to have and enjoy her domain to the centre of Narraganset Bay and the rivers above named. But let that pass. It is now too late to recover the lost. It may not be to preserve the remainder. Massachusetts has once been robbed of the fairest portion of the Old Colony. Shall the spoliation continue?

In the year 1741, as before stated, Rhode Island set up a claim to a portion of Massachusetts, and Commissioners were appointed by the British Crown to hear and determine the controversy. They did so; and set off to Rhode Island the towns before named, and also established the line in Seekonk river at "the eastward side thereof." Had these Commissioners fixed precisely where the new line established by

them really was, the controversy between the states as to *this* boundary would probably have terminated. But they did not. They did not go upon the land, measure and run out the lines, and set up monuments thereon. They merely described the line *on paper*, giving the points of beginning, the courses, distances, &c. The line of separation was described by them as a line three miles east and north-east from certain well known points on the eastern shore of Narraganset and Mount Hope Bay. And immediately after, without proper notice to Massachusetts, Rhode Island proceeded to run the line *ex parte*. Her Commissioners ran too far inland, and appropriated to Rhode Island a portion of the rightful territory of Massachusetts, of an average width of one third of a mile, and from thirty to forty miles in length. This fact is not in any degree doubtful. It has been ascertained by repeated measurements, and admitted by Commissioners of Rhode Island, in a report to the General Assembly of that state, made in 1791. There is also a question whether the "eastward side" of Seekonk river is at high or low water mark. This is the difference between the two states. It is true that a *majority* of the Massachusetts Commissioners appointed in 1844, did substantially agree with the Commissioners from Rhode Island upon a boundary line, and so reported to the Governor and Council in 1848. But their proceedings were, with entire unanimity and no little indignation, declared by the Legislature to be "*null and void*," and a special Commissioner was appointed in 1852 to prostrate the eighty-four stone monuments set up by the Massachusetts officers. [See No. 128 of the Senate Documents for 1848. Resolve of 1848, ch. 75, and of 1852, ch. 61.] Nothing can more forcibly illustrate the sensitiveness of the people of this Commonwealth to the action of any of her officers, by which her rights in this disputed territory should be at all compromised; and this action is the more significant when it is remembered that the Massachusetts Commissioners, whose action was thus repudiated after full and faithful examination before a special committee, were the Hon. Myron Lawrence, of Belchertown, and the Hon. Wm. Baylies, of Bridgewater.

One more effort was made to settle upon a compromise or conventional line, and three Commissioners were appointed by the Governor to confer with like Commissioners from Rhode Island. Three years were spent in negotiations, but without success. Finally in 1851, the Commissioners reported that it was improbable any satisfactory negotiation could be effected UNTIL THE TRUE LINE WAS SETTLED.— [See House Doc. No. 120, 1851.] Thereupon Gov. Boutwell, under a resolve of 1848, *c.* 75, instituted a suit in equity in the Supreme Court of the United States, for its final determination. The bill was filed in 1852, asking that Court to appoint disinterested Commissioners to run out the line as described by the King's Commissioners in 1741, and set up monuments thereon, so that its exact position might be known.

ascertained and established. This was a simple, natural, rational way of settling the controversy. It is the way two farmers would naturally take to determine a disputed boundary between their estates. It looked entirely towards ascertaining and determining the *true* boundary line; if not exactly, yet as nearly as practicable. *Now comes the first extraordinary step in the history of this controversy, and one which demands the scrutiny of the people of this Commonwealth.* Before any hearing has been had under the proceeding in equity, before any Commissioners have tried to run out the line, and even before any have been appointed for that purpose, a proposition is made to abandon all effort to find the *real* line, or even an approximation to it, and instead thereof to *create* an entirely new, arbitrary and artificial boundary, by ceding to Rhode Island the flourishing town of Pawtucket and the more valuable portion of Seekonk, in exchange for the town of Fall River, R. I., and a small portion of Tiverton. Is such a proceeding necessary? Is it just and expedient? Is it constitutional?

*First,—Is it necessary?* The main argument in its favor is that the question is of long standing, and ought to be settled in *some* way; that "the true line is now difficult of verification, on account of the uncertainty of ancient landmarks, and the unsatisfactory nature of the documentary evidence." [See Attorney General Phillips's report, Jan. 23, 1860.] This statement is in direct conflict with the prior opinion of Massachusetts officers. But supposing it to be so; is that sufficient reason why *some* effort should not be made to find it? True; the parties interested have not yet been able to see alike; they seldom do; but it does not follow that disinterested Commissioners appointed by the Supreme Court might not find the ancient and true line. *None such have yet made the attempt.* Until they have had an opportunity to try, it is not reasonable to suppose they would not succeed. In 1848, a joint special committee of the Senate and House of Representatives of Massachusetts, in a very elaborate and careful report to the Legislature, say that it was proved before them that "the line of 1741 could be run without difficulty." [See Senate Doc. No. 128, 1848, p. 58.] Again on page 68 of the same document the committee say: "The line of the Commissioners of 1741 is precisely marked out in their proceedings and by their plan; *and there will be no difficulty in ascertaining, by well known principles of law, the precise location.*"

They would find the line either where Massachusetts claims it to be, or where Rhode Island locates it, or else somewhere between them. In no event would they go *outside of the disputed territory itself*, and at the worst their line would only coincide with the claims of Rhode Island; but this would not *take away* from Massachusetts anything she now has in fact; since Rhode Island has long exercised jurisdiction as far eastward as she contends the line to be. In the worst re-

sult of the case, therefore, Massachusetts could only fail to recover back the territory she thinks Rhode Island has unjustly encroached upon; but her present actual jurisdiction would not be reduced in the slightest degree. And even that result would be an advantage of $1,500,000 over the present proposed exchange. But should the United States Commissioners "split the difference," as is not impossible, it would be so much clear gain for Massachusetts, with no corresponding loss. If they could not find the exact line, every foot of the way to a mathematical certainty, they might approximate to it with substantial accuracy, sufficient for all practical purposes. *De minimis non curat lex.* Wherever the Commissioners should establish the line, it would forever end the controversy. Massachusetts would be entirely content with the result. Rhode Island *must* abide by it. And the line thus fixed would by both States be deemed, and taken to have always been the true and ancient line. The controversy would thus reach a natural, a reasonable, and a satisfactory result to all parties. Such was the mode contemplated by the Legislature in 1848, directing the Governor to "institute such process as he may deem proper in the Supreme Court of the United States, for the purpose of having a final adjudication *upon said line.*" Such was the declared object sought in the bill in equity itself. Here is the prayer of that bill, as the lawyers call it: "And your complainants pray that the boundary line between Rhode Island and Massachusetts may, by the order and decree of this honorable Court, be run out, distinguished, ascertained and established, and monuments erected thereon; and that a commission may issue for that purpose," &c.

In 1853, His Excellency, John H. Clifford, declared in his inaugural address: "The long pending controversy between us and Rhode Island, concerning the *true* boundary between the two States, under the direction of the Executive, and in conformity with the expressed will of the Legislature, has been brought before the Supreme Court of the United States for a final determination and adjustment, and the protracted and vexatious controversy will now be decided by an umpire in whose judgment it can not be doubted both parties will repose with extra confidence." No doubt of it. This is precisely what the people of Massachusetts desire. In 1848, the Hon. Tristam Burgess, of Seekonk, residing on the very territory now proposed to be ceded to Rhode Island, entered his most solemn protest against any agreement transferring to Rhode Island any territory rightfully belonging to Massachusetts; and under the sanctions of his oath, declared thus: "Finally I state it as a fact, which, from all I have heard, I fully believe, that the people of Massachusetts, bordering on this line, from the ocean, to the line of this State on the north, *will never be satisfied*, until this line is settled by the *Supreme Court of the United States.*" For more than twenty years the people of Fall River, Westport,

Swanzey, Seekonk, Pawtucket and Attleborough, along on this line have been constantly demanding that this question should be settled by the Supreme Court; and that commissioners appointed by that Court should run out and declare the true line of 1741. At a general convention of the people held at Fall River in June 1847, upon this very subject, it was unanimously resolved that "the only proper tribunal for determining all such matters, and the only one that will give satisfaction to all concerned, is the Supreme Court of the United States." Finally in 1852, the suit is brought in the United States Court for that very purpose. And just as we are or ought to be in a condition to obtain some decision upon our rights, the whole pursuit is suddenly abandoned. Why? At whose instigation is the whole policy of the government so suddenly reversed? A policy which fifty years of repeated experiments had proved absolutely necessary to be carried out, before any satisfactory negotiation could be accomplished in settling this important question! Who first suggested the resolve authorizing any renewed negotiations? What satisfactory public reason can be given for such a sudden change in the management of this case?

What has occurred to show the impossibility of terminating the controversy in the way first proposed? Has any new light dawned upon the case, since it was commenced, that makes it necessary to strike our flag, before firing the first gun? Has the "unsatisfactory character of the documentary evidence" become so wonderfully changed, or has "the uncertainty of the ancient landmarks" so marvelously increased since the bill was filed, that no person shall be now requested even to look for them?

*Second,—Is the proposed exchange, just and expedient?* In the first place it is grossly unequal, in population, ratable polls, voters, taxable property and territory.

| | | |
|---|---|---|
| By the census of 1860, Pawtucket has a population of | 4,200 | |
| That part of Seekonk ceded to Rhode Island, | 1,854 | |
| Total, | | 6,054 |
| Fall River, R. I., has | 3,377 | |
| Tiverton, (5 houses) say | 23 | |
| Total, | | 3,400 |
| Balance against Massachusetts, | | 2,654 |

| | | | |
|---|---|---|---|
| Number of Ratable Polls in Pawtucket. | | 951 | |
| " " Seekonk, | | 388 | |
| | Total, | | 1,339 |
| Number of Ratable Polls in R. I., less than | | | 839 |
| Balance against Massachusetts, | | | 500 |
| Number of Voters in Pawtucket, (1857) | | 603 | |
| " " Seekonk " | | 325 | |
| | Total, | | 928 |
| Number of Voters in R. I., not over | | | 335 |
| Balance against Massachusetts, | | | 593* |
| Taxable property of Pawtucket, (town valuation, 1860) | $1,976,139 | | |
| do. Seekonk, do. | 1,021,359 | | |
| | Total, | | 2,997,498 |
| Taxable property in Rhode Island, (same) not over | | | 1,300,000 |
| Balance against Massachusetts, | | | $1,697,498 |
| Right of access to tide waters lost, (miles,) | | 23½ | |
| " " gained, " not over | | 3 | |
| Balance against Massachusetts, | | | 20½ |
| Acres of land in Massachusetts, transferred, | 11,840 | | |
| " " Rhode Island, acquired, one-third of which is fresh water ponds, having their natural outlet in Massachusetts, | 7,040 | | |
| Balance against Massachusetts, | | | 4,800 |

By the above facts it clearly appears that if this arrangement is consummated, Bristol County will incur a net loss of ONE THIRTY-FIFTH of her entire population; and in valuation, a net loss of about ONE FORTIETH of her entire taxable estate! As great a proportionate loss to the County of Bristol as to the *State* would be the whole population of the County of Franklin, or the wealth of Barnstable, Nantucket and Duke's Counties combined!

In every respect, therefore, it is manifest that Massachusetts is the loser. And this is so, even if Rhode Island had the clear and undisputed right to that which Massachusetts is thus buying of her at so great a price. What will be thought of the negotiation, in a mercantile point

* Probably this balance would be somewhat reduced by counting those naturalized persons in Rhode Island, who are not voters there, but might become such in Massachusetts. There may be 100 in all.

of view, when it is remembered that a large portion of this very territory said to be acquired by the conventional line is already ours by right? Gov. Boutwell, in his message of March 31st, 1851, on this subject says: "I have no doubt that the line here (at Fall River) claimed by Massachusetts is the true line." The citizens of Fall River, in 1860, unanimously resolved that they "would have been content with the decision of the Court, which, in the opinion of the late Mr. Choate, and other eminent lawyers, would have given us the four hundred and forty rods to the southward of the mouth of Fall river. which would have included *five-sixths* of the population obtained by the conventional line." To buy our own property and pay twice its value must be the culmination of commercial sagacity!

But in looking at this subject in the light of equivalents, it should not be forgotten that in 1860, the Rhode Island commissioners consented to relinquish to Massachusetts all they now do, in exchange for far less of Massachusetts property than the present line transfers to Rhode Island. The *original* conventional line first agreed upon did not cede any part of Pawtucket to Rhode Island, but only a part of Seekonk, and Swanzey, and a small tract in Westport. By that line, the balance against Massachusetts in valuation, was about $150,000 instead of $1,600,000 That exchange was a great bargain for Rhode Island. It was agreed to by her Commissioners and by the joint committee in her General Assembly. The bill for it passed the House, and Mr. Hayes there said that the control of Narragansett Bay alone was worth all they were required to part with. In order to carry it through the Senate, an alteration of the contract was made by which Rhode Island should gain, and Massachusetts would lose $1,500,000 more than the Rhode Island Commissioners ever had the face to ask! Unaccountable as this may appear, it is strictly true. But no corresponding equivalent from the State of Rhode Island so far as we can learn, was ever offered to us by that state.

Now this great inequality has a practical interest for every tax payer in the County of Bristol.

By our last County Treasurer's report he foots up an indebtedness of about $100,000, most of which, sooner or later, must be paid by direct taxation. Striking out $1,500,000 of our entire assets at one negotiation does not lighten the burden upon the remainder. To the loss thus arising from a diminution of our assets must also be added that consequent upon the reduced number of ratable polls, which cannot well be less than $500 to $800 on every county tax.

Nor is this all. Our State valuation for the next ten years has just been completed. The estimate for Bristol County is $66,294,256. On that sum our proportion of the State tax is to be computed until

1870. Whether we have it or have it not, we must pay the State taxes on that sum, until a new valuation takes place. By the proposed exchange the entire taxable estate of the County is essentially diminished.

But were the proposed exchange entirely equal in all respects, is it expedient to make it? The argument in favor of doing so is that it will be for the interests of Fall River, to bring "under one jurisdiction the whole of a densely peopled territory, hitherto divided by an imaginary line, cutting diagonally across streets and through residences and subject to the diverse laws and policy of separate States." This is the reason put forth by the citizens of Fall River in their Resolutions of 1860. Grant it. Give to the consideration the weight to which it is entitled. Is that a sufficient reason why a much larger portion of our own people, territory and property should be ceded away in exchange and against the consent of those thus to be transferred? It may furnish a good reason why the territory claimed by Rhode Island, adjoining Fall River, should be bought, and paid for out of the public treasury, and all adverse claim thereto on the part of Rhode Island extinguished. Against that we have nothing to say. But is it a sound and safe precedent to establish, that the boundaries of our Commonwealth shall be continually shifting whenever a town happens to grow up on the border, extending into an adjoining State, whose interests would be promoted by being under one jurisdiction? If so, we are indeed held together by a rope of sand. To-day our northern boundary is a straight line from the Merrimack to the Empire State. To-morrow it may be as winding and irregular as the Merrimack itself. This year one county may be the largest and most populous in the State; the next it may be the smallest and most insignificant. If the principle is a sound one in Bristol, it is in Berkshire, and an addition to one county may be obtained by the cession of perhaps a much larger territory from quite a different county.

Besides; what is to hinder a repetition of the same exchange a few years hence at Fall River itself? That flourishing city may extend in a short time down to the boundary line it is now proposed to create. Its business interests will have again pushed it across the border. The present inconveniences will again present themselves, aggravated by the increased population of the city. In the mean time the city of Providence has been lengthening her cords and strengthening her stakes eastward, and her wants and interests require additional room for expansion. If the argument for exchange is sound now, it will be then; and another slice must be carved off from Massachusetts in exchange for an equal or less territory from our more sagacious neighbor. Who can foretell the end of the series? Can it be wise; can it be expedient thus to be constantly disturbing our long established and intimate relations, dividing towns, separating school districts, sun-

dering parishes and religious societies, and subjecting our people to such continual changes in all their civil, social, and political relations?

*Third. Is the exchange constitutional?* It is to be noted that this is not a proposition to settle by agreement what was the *true* and real line, but it is to cede away the acknowledged and undisputed territory and people, soil and citizens of one State for those claimed by another. The natural objection entertained by all loyal citizens to such a proceeding is well set forth in the petition of the city of Fall River itself (now said to be in favor of trading away Pawtucket and Seekonk.) signed by over five hundred of her most respectable citizens, in these words:

"To the Hon. Senate and House of Representatives in General Court assembled: The undersigned inhabitants of Fall River, respectfully pray that no part of the territory within the rightful boundaries of this Commonwealth may be alienated therefrom to the State of Rhode Island by the voluntary act of the Legislature of Massachusetts."

True; this petition was signed and presented in 1848, but principles remain the same, although circumstances are said to alter cases!

Neither is it a question whether those citizens who desire to leave Massachusetts with their persons and property shall be allowed to do so; but it is whether those who are anxious to remain in this Commonwealth shall be compelled to depart. And here again we are indebted to Fall River for the forcible presentation of the feelings and sentiments which now influence and govern a very large number of inhabitants of Massachusetts residing upon the territory proposed to be ceded away. For in 1848 the line agreed upon by the Commissioners of the two States (afterwards repudiated by Massachusetts,) left a few citizens at Fall River on the Rhode Island side. Those citizens very properly remonstrated against the line, saying that "they had contributed their full proportion to the public buildings, churches, and school houses in Massachusetts, that they had long enjoyed in safety and tranquility, the blessings of life under the stable institutions and beneficent laws of this Commonwealth; that their children had received and improved the privileges and advantages of education, and of moral and religious instruction, secured by her constitution and laws; and which were the rich inheritance of her children. That their sympathies were with her institutions and people, and they cherished the hope that the same advantages and blessings would be the inheritance of their children's children." Their prayer prevailed; the General Court declared the action of her own officers null and void; and those petitioners still remain citizens of Bristol County. Is our Commonwealth less considerate of her loyal and faithful people now than in 1848?

But the existence of any constitutional *power* to cede away the people and territory of a State is at least doubtful. If it can be done with one town it may with two, and with an entire county. If the right be admitted nothing can prevent the constant tampering with the boundary as often as an occasion or a temptation arises. The dominant political power in a State may exchange any portion of their political opponents for an equal number of their political friends from another State; provided, always, Congress consents; and how that consent can be obtained, we shall presently see. Again; if territory of Massachusetts may be constitutionally ceded to an *adjoining* State, it may be to one more distant. Boston, and Charleston, S. C., may change sovereignties if the Legislatures of the two States see fit, and Boston has no redress! Can it be that the tenure of our citizenship in Massachusetts is so frail?

But if the right exists at all under our Constitution, it can reside only in the *Legislature*, the direct representative of the people themselves. To cede away our domain is one of the highest Legislative acts. It cannot be delegated to the Attorney General, even subject to the approval and direction of the Governor and Council; which, it is claimed has been done by the Resolve of 1859, ch. 69. Our bill of Rights, Art. XXX., declares that, "in the government of this Commonwealth, the Executive shall never exercise the legislative and judicial powers, or either of them; to the end that it may be a government of laws and not of men." As well might the Legislature delegate to the Governor and Council the power to make *all* the laws, and adjourn themselves after the first week of their session!

It is hardly necessary to add in this connection, that by the existing laws of this Commonwealth, [Gen. Statutes, ch. 17, p. 1.] "The *boundaries*, rights, duties, powers, privileges and immunities of the several counties *shall remain* as now established." Of course as this is but a Statute, and not a constitutional provision, the *Legislature* may change the boundaries of two adjoining counties in this Commonwealth as was held by the Supreme Court in 1851, [see 6 Cush. 578,] but no power less than the Legislature can do it. It would be in direct conflict with the Statute above cited.

But again; even if the power to make the proposed exchange of territory could be constitutionally delegated to the Governor and Council, did the Legislature of 1859 intend to give any such power on this subject as has been exercised? Here is the resolution:

"*Resolved*, That the Attorney General and the counsel on behalf of the Commonwealth, subject to the direction and approval of the governor and council, be and they are hereby authorized to negotiate for the adjustment of the proceeding in equity now pending in the supreme court of the United States between this Commonwealth and the State of Rhode Island, and Providence Plantations, by the adoption of a conventional line, to be confirmed by a decree of said court, and

that for the purpose aforesaid, and the general expenses of conducting said suit, the governor be authorized to draw his warrant for a sum not exceeding five thousand dollars."

"Negotiate for the adjustment of the proceeding in equity now pending in the Supreme Court." What was that proceeding in equity? It was to ascertain and determine the *true* line on certain disputed territory. Nothing more. An authority to adjust that line might empower the Attorney General to agree upon some conventional line within, upon and relating to the disputed territory, but not to negotiate for other territory *entirely* outside of it. It would not authorize the exchange of one-half of Massachusetts for one-half of Rhode Island, which might have been done under that resolve with as much pretence of right, as that which has been done under it. No person would naturally understand by that resolve that authority was given to cede away any *material* portion of territory, about which there was no dispute, and to which Rhode Island made not the least claim. Yet every acre of the two towns proposed to be given to Rhode Island is acknowledged to be our soil, as much as that on which the State House in Boston stands. The difference between the two powers is manifest. The power to adjust and determine boundary lines is a very different power from that of creating entirely new boundaries. In a dispute between individuals as to the boundaries of their farms, arbitrators appointed to adjust the same cannot transfer land from one to the other. They can only determine the pre-existing lines. [*Searle* v. *Abbe*, 13 Gray's Rep. 412.]

It is clear therefore that the resolution does not authorize the proceedings done under it.

One more suggestion and we close. It is admitted on all sides that two states can not make any agreement transferring each other's territory "without the consent of Congress." [Constitution of the United States, Art. I, Sec. 10.] It is claimed by some that such consent has been obtained; and in this mode. In 1859 Congress enacted the following Statute:

"Be it enacted, &c., That the Attorney General is hereby authorized and directed to intervene and represent the United States in the proceeding in equity, now pending in the Supreme Court between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations, and to consent on behalf of the United States to the adjustment of said suit by a conventional line to be agreed upon by the parties, and confirmed by a decree of said Court, if, in his judgment, the rights and interests of the United States will not be prejudiced thereby."

Unless the consent of the Attorney General under this act to the proposed conventional line is the consent of Congress within the meaning of the Constitution, it is admitted that the compact is unauthorized. But how can Congress delegate that power to the Attorney Gen-

eral? The Constitution vests it in Congress; the *whole* Congress. They can no more delegate to the Attorney General that power than any other. It is a matter entrusted to their judgment and their discretion. But this statute, if valid, confides the whole matter to the judgment and discretion of the Attorney General, even in advance of knowing what the proposition is.

If this objection is valid, Congress must give its consent in some other form before the proposed exchange can be carried out. That consent may or may not be obtained upon a full and fair public hearing in Congress, but the mode by which consent was attempted to be obtained, has a suspicious appearance. It is a part of the same scheme by which the subject was withdrawn from the action of the Legislature of Massachusetts, and entrusted to the Governor and Council.

Those who were interested to bring about this negotiation knew full well that the Legislature would never knowingly consent to it. They were well aware how promptly and how unanimously both branches in 1848 rejected and repudiated the action of her two worthy, intelligent and able commissioners, and would not consent to the transfer of a foot of territory to Rhode Island rightfully belonging to Massachusetts. They knew there was no hope of accomplishing the project in a public and open way. It must be smuggled through. Thus far they have succeeded. It remains to be seen what the final result will be.

And that suggestion leads to the final inquiry: *What is now to be done?* We answer,—

1st. Repeal the Resolve of 1859, so far as it is not yet executed and direct the Attorney General of Massachusetts not to consent to any decree in the United States Court, establishing the proposed line.

2d. Let commissioners be appointed by the United States Court to run out and mark the true line, as near as practicable, between the two States according to the object of the bill of equity. If any negotiation is then desirable between the two States, we shall know what we need to buy, and what our neighbor has to sell.

3d. If it is entirely certain that we shall fail to establish our rights to *any* portion of the territory in dispute, withdraw the suit at once. We thereby lose nothing which we now possess, as Rhode Island already has jurisdiction over all the controverted ground. By so doing we shall save over $1,500,000 of net loss incurred by the proposed conventional line, and escape the disgrace of having voluntarily trafficked in our own fellow citizens.